

AT A PUBLIC HEARING AND REGULAR MEETING OF THE HAMPTON PLANNING COMMISSION HELD IN THE COUNCIL CHAMBERS ROOM, 8TH FLOOR, CITY HALL, HAMPTON, VIRGINIA, ON AUGUST 9, 2004 AT 3:30 P.M.

PRESENT: Chairman Harold O. Johns; Vice-Chairman Timothy B. Smith; and Commissioners Perry T. Pilgrim, Katherine K. Glass, George E. Wallace, and Angela Leary

ABSENT: Ralph A. Heath, III, Perry T. Pilgrim

ITEM I. ROLL CALL

A call of the roll noted Commissioner Heath and Commissioner Pilgrim as being absent. (**NOTE:** Commissioner Pilgrim was present during Rezoning Application No. 1189).

ITEM II. MINUTES

There being no additions or corrections, a motion was made by Commissioner Katherine K. Glass and seconded by Commissioner Randy Gilliland, to approve the minutes of the July 12, 2004 Planning Commission meeting. A roll call vote on the motion resulted as follows:

AYES:	Smith, Glass, Wallace, Johns
NAYS:	None
ABST:	Leary
ABSENT:	Heath, Pilgrim

ITEM III. STAFF REPORTS

A. Youth Planner Report

Ms. Sarah Rodriguez, Youth Planner, stated over the past month, she and Mr. Berg have been working to prepare for important events with the Youth Commission and city staff. She stated the month of July was preparation of plans for the Youth Commission Retreat. The retreat will be held on August 27 and 28, and she believes it will be the best one ever. A lot of activities and fun skill building have been planned. She stated this month, they have been working with the Student Investment Panel. The purpose of the Student Investment Panel is to provide youth perspective on issues that the adult panel are addressing which was created to assist the Adult Investment Panel. The adult panel first realized the true benefit of youth as an asset when multiple youth made speeches to the panel on the eighth of April. A meeting held on July 19th was the first meeting to explain the Investment Panel's and Student Panel's role. She stated at Founder's Day, the Youth Commission and the Youth Planners had a booth near the carousel in Downtown Hampton. Activities for the crowd included a trivia with prizes and fliers for numerous up-coming youth activities.

The Youth Planners and Youth Commission are continuing an ongoing process of drafting a new and improved youth component, and they are also working on merging the youth agenda with the new draft of the Hampton Community Plan. She thanked the Commission for their time, and entertained questions.

B. Community Plan Update

Mr. Keith Cannady, Chief Planner, distributed an updated outline and schedule on the Community Plan process for the Economic Development section. He stated staff has tentatively scheduled the draft to be presented at the next Planning Commission meeting, but there are steps that need to be taken before it is presented. The draft would be in a work session type format. The adoption of the entire plan is targeted for the end of the calendar year.

ITEM IV. PRELIMINARY SUBDIVISION

- A. **Danielle Place** a 3.80± acre One-Family Residence (R-11) proposed subdivision located at the eastern terminus of Scones Drive, containing up to 8 single-family lots.

Mr. Matthew Newsom, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. The proposed subdivision plat is consistent with the 2010 Comprehensive Plan that recommends low density residential development for the area and other city ordinances.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, Danielle Place preliminary subdivision, a proposed 3.80± acre residential development fronting on the east terminus (50'±) of Scones Drive, beginning 170'± east of its intersection with Lodi Court, with a maximum depth of 220'± and a maximum width of 920'±, with access from Scones Drive; and

WHEREAS: The property is zoned One-Family Residence District (R-11) which allows a minimum of 9,000 square foot lots with 70 feet of frontage and 1,700 square foot dwellings; and

WHEREAS: The subdivider, G.E. Gaynor Building Contractor, Inc., seeks conditional approval of up to nine single family lots, as shown on the preliminary subdivision plat of Danielle Place, dated July 27, 2004; and

WHEREAS: The subject subdivision plat is in conformance with the 2010 Comprehensive Plan which recommends low density residential development for the area where the proposed subdivision will be located; and

NOW, THEREFORE, on a motion by Commissioner Katherine Glass, and seconded by Commissioner Timothy Smith;

BE IT RESOLVED that the Hampton Planning Commission recommends that Danielle Place preliminary subdivision plat be approved up to nine single family residential lots, as being in conformance with the 2010 Comprehensive Plan.

A roll call vote on the motion resulted as follows;

AYES: Smith, Glass, Wallace, Leary, Johns
NAYS: None
ABST: None
ABSENT: Heath, Pilgrim

B. **Hampshire Glen** a 56± acre One-Family Residence (R-11) proposed subdivision located at the intersection of Salters Creek Road and West Queen Street, containing up to 177 single family lots and 5 parcels.

Mr. Matthew Newsom, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. The 2010 Comprehensive Plan recommends business/industrial for the proposed area, but approval of Rezoning Application #1181 determined that the site was suitable for single-family residential development.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, Hampshire Glen preliminary subdivision, a proposed 56± acre residential development fronting 981'± on Salters Creek Road, 1,346'± on West Queen Street, 416'± on Fairland Avenue (a paper street), and 2,398'± along the CSX Rail Road tracks that run parallel to Pembroke Avenue, with a maximum depth of 1400'± and maximum width of 2700'±, with access from Boxwood Street and Stonehurst Road; and

WHEREAS: The property is zoned One-Family Residence District (R-11) which allows a minimum of 9,000 square foot lots with 70 feet of frontage and 1,700 square foot dwellings; and

WHEREAS: The property is governed by nine conditions in Rezoning Application #1181; and

WHEREAS: Per the first proffer, all dwellings shall have a minimum of 2,000 square feet in heated living area; and

WHEREAS: The subdivider, Waverton Associates, seeks conditional approval of up to one-hundred-seventy-seven single-family lots and five parcels, as shown

on the preliminary subdivision plat of Hampshire Glen, dated July 22, 2004; and

WHEREAS: The subject subdivision plat is not in conformance with the 2010 Comprehensive Plan which recommends business/industrial for this general vicinity, but the approval of Rezoning Application #1181 determined that this site was suitable for single-family residential development; and

NOW, THEREFORE, on a motion by Commissioner Timothy Smith, and seconded by Commissioner Katherine Glass;

BE IT RESOLVED that the Hampton Planning Commission recommends that Hampshire Glen preliminary subdivision plat be approved up to one-hundred and seventy-seven single-family residential lots and five parcels, as being in conformance with Rezoning Application #1181, as well as all City Codes and Ordinances.

A roll call vote on the motion resulted as follows;

AYES:	Smith, Glass, Wallace, Leary, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath, Pilgrim

ITEM V. PUBLIC HEARING

Mr. O'Neill read the public hearing item notice on the agenda as advertised in the Daily Press on July 26, 2004 and August 2, 2004.

A. Coliseum Central Master Plan

2004 Coliseum Central Master Plan: Proposal by the City of Hampton to adopt the 2004 Coliseum Central Master Plan. The area included in the plan is generally bounded by Todds Lane and Hampton Roads Center Parkway to the north; N. Armistead Avenue and Newmarket Creek to the east; Interstate 64 and Newmarket Creek to the south; and W. Queen Street, Aberdeen Road, and Magruder Blvd. to the west. Recommendations include improving the street network and pedestrian connectivity; providing open spaces, mixed land uses, housing opportunities and housing variety, commercial redevelopment and other district development issues. Key initiative areas identified in the Plan include Coliseum North, Coliseum South, Power Plant Parkway, Coliseum/Convention Center, Tidemill Creek, and Sentara.

Mr. O'Neill stated the Commission was briefed on the Coliseum Master Plan in July, and this session was advertised as a public hearing to hear community comments.

He stated it was indicated in the memo sent to the Commission that the document was not 100% complete, and therefore, staff recommends to the Commission not to take action on the item, but if there are members of the public to speak for or against the plan, staff welcomes their comments and will take them into consideration as the document is finalized. If there are no public comments, staff will take their cue from the Commission as to whether the presentation should be presented since no action is to be taken.

Mr. Dan Kelleher, Executive Director, Coliseum Central Business Improvement District, 2021 Cunningham Drive, Suite 101, urged the Commission to accept staff's recommendation to defer action on the Coliseum Central Master Plan. He stated there are different reasons other than Planning staff to defer action, because the Members Committee will be deliberating over the Coliseum Central Master Plan in hopes of making recommendations at their August 26th meeting, and the entire Board of Directors will be meeting on August 31st. He respectfully requests the Commission to defer action until they have an opportunity to receive input from them.

After discussion, a motion was made by Commissioner Timothy B. Smith, and seconded by Katherine K. Glass to defer the Coliseum Central Master Plan presentation until the September 13th Planning Commission meeting. A vote on the motion results as follows:

AYES:	Smith, Glass, Wallace, Leary, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath, Pilgrim

Mr. O'Neill read the next public hearing item notice.

B. Rezoning Application No. 1189

Rezoning Application No. 1189 by Anderson-Findley, LLC, Clairdome, Inc., and E. M. Findley to rezone 36± acres at 1516, 1518 and 1520 North Armistead Avenue from One Family Residence District (R-11) to Limited Commercial District (C-2) for multi-family and commercial uses. The 2010 Comprehensive Plan recommends commercial-mixed uses for these properties. R-11 permits single-family houses at a density of 3.5-4.5 units per acre. C-2 permits multi-family uses at a maximum density of 16 units per acre, as well as commercial uses.

Mr. Frear Hawkins, Attorney, 1 East Queensway, representing the applicant, stated the request is to rezone the property from R-11 to C-2 to construct a mixed-use project on the property. He stated the bulk of the property will be used for residential purposes and the other portion for commercial. The commercial portion is limited by proffer submitted to C-1 uses, such as office space, shops, etc. The proposed use proffers a minimum of 300 residential units on the property, which will consist of

approximately 204 apartment units and 55 condominium or townhouse units for sale. The apartment units would be closer to Armistead Avenue, and the condominium or townhouse units would be near the creek. The proffer also indicates that the one bedroom apartment units would average approximately 700 square feet with a minimum of 650 square feet, and two to three bedrooms would average 950 square feet with a minimum of 900 square feet. The two bedrooms for sale would average 1,300 square feet with a minimum of 1,200 square feet, and the three bedrooms would average 1,500 square feet with a minimum of 1,350 square feet. The average rentals would be at the high-end and sales would run in the \$100,000 to \$200,000 range. The Comprehensive Plan for the proposed area recommends mixed-use which is what is being proposed. The applicant has proffered the minimum square footage, building materials, roofing, and elevations. The whole idea of the proposed use is to provide a high-end upper level range that would be a complement to the city's development. Discussions were held with city staff and the Urban Design Associates to come up with a project that would be a benefit to the city. A neighborhood meeting was held on July 19th and the applicant mailed notices to approximately 150 people in the area, and approximately 50 people attended. Another notice was mailed to the same people with a brief recap of the meeting. Concerns were expressed regarding the effect the project would have on flooding. He stated Mr. Whitley attended the meeting, and it was indicated that the Newmarket drainage system is sufficient to handle the development. He stated the city's rules, ordinances, and the Chesapeake Bay Act requires any project be neutral such that the proposed project run-off cannot exceed the pre-project run-off. It also requires the preparation and presentation of acceptance by the city from the Stormwater Management program which should be completed by City Council. In regards to rainfall, part of the Stormwater Management plan would require that the project contain a detention pond, so that rainfall cannot be emptied into the drainage system faster or any more so than it was gained before the project. The developer will handle the rainfall with berms, detention pond, or vegetations of trees, etc. In regards to the concern regarding tidal flooding, the developer cannot solve tidal flooding, because you cannot anticipate hurricanes. In regards to water accumulating on the proposed project, it will be dealt with so that it is neutral, and such that water can automatically be released back into the drainage system and will not be detrimental to the environment. He stated another concern raised by the resident was traffic. The applicant presented the residents with a traffic plan which indicated that the city believes the existing road system can handle the traffic subject to the applicant providing a left turn lane for traffic heading east on Armistead Avenue and a right turn lane for traffic heading west on Armistead towards the Mercury Boulevard intersection. The applicant has also proffered that it will contribute \$100,000 towards construction of a traffic signal. The applicant has prepared an environmental study, and it was approved by the Corp of Engineers which was presented to the city. The proposal is a high value project that will be a benefit to the city and adds to the development of the city. He stated Planning staff has recommended approval of the project. As an aside, it is being planned to reserve thirty acres which would ultimately be dedicated to the city or some type of conservancy organization and ultimately used by the city for a small waterfront park which would be done as part of the development. On behalf of the applicant, he requested that the Planning Commission favorably recommend the project to City Council. He introduced

Mr. Marshall Findley, owner of the property, and Mr. Henry Stevens, developer, who were available to answer questions.

In response to clarification by Commissioner Smith, Mr. Hawkins stated the maximum is 300 dwelling units, and the proposal is 204 apartment units and 54 condominiums for sale.

In response to a question by Commissioner Smith, Mr. Hawkins stated the original proposal regarding the contour was to the city, but it was indicated by staff that it was not an appropriate proffer. He stated if the city would accept the contour, the idea would be to set it up so that it could be of use to the city and the citizens.

In response to a question by Commissioner Smith, Mr. Hawkins stated the applicant can take care of making the contour part of the proffer.

Ms. Caroline Butler, Chief Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. She stated if the project is approved, it would allow the expansion of the Crossroad project in terms of commercial and residential development in the Coliseum Central area. It would satisfy the city's high value housing objective. It provides proximity to the Crossroads project to the entire Mercury Central area and to Interstate 64. It provides the attraction and attention of high income residents to the City of Hampton. It meets all of the 2010 Comprehensive Plan and other public policy recommendations, and therefore staff recommends approval of Rezoning Application No. 1189, subject to proffered conditions.

Mr. C. A. Brown, Jr., 1813 Gildner Road (Windsor Terrace), spoke in opposition to the proposed request. His concerns pertained to drainage and water problems; elevations in the area and how the water would flow onto Windsor Terrace; the increase of traffic; and future events from the Coliseum, Convention Center, and the impact it would have on North Armistead. He could not determine how property values from the proposed use would affect his property, but he believed it would go up. He addressed the environment and the impact the proposed use would have on wetlands, species in the water, and plants. He asked the Planning Commission to oppose Rezoning Application No. 1189 for the sake of the local citizens until some means could be obtained to reduce the flooding in his area.

Ms. Patsy Alston, 1801 Canterbury Road, stated she was not able to attend the meeting because she was overseas. She commented on the snakes that have entered into her mother's home who lives in the area due to rainfall and Nor'easters. She addressed the impact of drainage when the property is developed; how the development would take away from the Coliseum Crossing plans; and how it would create havoc. She believed the drainage should be repaired in the area. She concluded that building on the property is a gain for the developer, and there is no sympathy for those residents who have lived in the proposed area for years. She has seen the changes, and has been through the devastation of hurricanes. She stated we live on a Peninsula that has swamp land which brings out large snakes and other

critters. If they were living in a place, such as the northern part of the Peninsula that has solid ground, you would not have to deal with flood waters, snakes and other critters, which would be good, but you cannot develop in an area such as the proposed site. She was concerned regarding the elevations and how the drainage from the elevation would affect her property. She personally does not want to be bothered with snakes, or have to buy a boat because the applicant's property is covered and interest is protected. She stated if the property is developed, they will lose lots because of property damage and will have to declare a state of emergency due to drainage from the development.

In response to a comment from Mr. O'Neill regarding the development process, Ms. Butler stated the applicant did perform a traffic study by a private consultant which was reviewed and approved by the city's Traffic Engineer. The traffic study did take into account all of the proposed development on the Crossroads project which includes the hotel and Convention Center, the residential and retail development that is anticipated to occur in the subject area. The study did allow for future development for the subject property, as well as all of the existing development in the area. The study determined that the traffic that leaves the Coliseum events would come down Freeman Drive and make a right hand turn on Armistead to get to the interstate. Anyone who wanted to leave from a Coliseum event and go north on Armistead would take the new connector road rather than making a left turn onto Armistead from Freeman. The traffic study determined that the additional development on the Findley property would require a traffic signal which was a proffer in the application.

Mr. Fred Whitley, City Engineer, stated he did attend the public meeting, and his role was to reassure the residents that the drainage plan submitted by the developer will be reviewed. He stated there have been a number of problems with flooding in the subject area, particularly the homes in the vicinity of Home Depot that front on Armistead Avenue. Several homes were flooded and totally destroyed from the last hurricane. The elevations in the subject area range from below 2.5 above sea level to approximately 6 or 7 feet above sea level. The primary culprit of flooding in the subject area is tidal flooding. The tide comes in from the north, comes down into Newmarket Creek and backs up toward the Coliseum. The tide will rise the elevation above the nature that it takes it, and people who live in the vicinity will be subject to repeated flooding as long as the property is as low as it is. There is nothing the city can do about this issue. He stated the stormwater runoff begins south and flows down Newmarket Creek and out to the Back River. The floodplain where the water is held near the subject area is fairly wide. It wraps around Home Depot and comes out to the other side of Armistead Avenue where there is a fine channel and a wide floodplain. This gives the water ample opportunity to spread out, and there is adequate capacity near the Mercury Boulevard bridge where the creek flows under to take the stormwater runoff. In summary, he stated tidal flooding is when the tide comes in and rises to a certain level versus riverine flooding where the stormwater runoff accumulates and tries to exit out into the Back River. In both cases, in his opinion, the proposed site is not going to raise the height of the tidal flooding because the floodplain is so broad, and it is not going to impact the riverine or stormwater runoff flooding because there is so much space for the

water to spread out to. This is not going to make or break the existing flooding conditions in the subject area.

In response to a question by Commissioner Smith, Mr. Whitley concurred that the flooding is not going to reverse back up towards Westminster.

In response to a question by Commissioner Smith, Mr. Whitley concurred that detention ponds are being required, and the drainage plan shows that the post-development runoff rate is no greater than the pre-development runoff rate on the subject property.

In response to a question by Mr. Brown, Mr. Whitley stated the site has to be elevated to meet building codes. He stated it doesn't matter what the property is zoned, it has to be raised to meet code requirement.

In response to a question by Commissioner Pilgrim regarding the process for developing on the subject site, Mr. Whitley the developer has to deal with the Corp of Engineers if they choose to build Condos on wetlands, but he does not believe the developer is proposing this or if they are filling non-tidal wetlands. The Corp of Engineers will issue a general permit if they fill less than one third of an acre of non-tidal wetlands. It is an administrative process to receive the general permit.

In response to a question by Mr. Brown regarding a traffic light, Mr. Whitley stated a traffic signal is being planned to be located at intersection of Armistead Avenue and Reese Drive when the connecting road is extended over to the Coliseum. The signals will all be interconnected with fiber-optics and controlled centrally from traffic operations.

Mr. Brown stated his concern is the flooding, and the subject area has had the problem for years. He knows it is unsolvable, but he does not want to make it worse.

In response to a question by Ms. Alston, Mr. Whitley stated he cannot guarantee there would be any increase on the level of the back flow of tidal wetlands near the subject area because there are too many variables with mother nature.

Mr. Brown stated he is not opposed to the development. He is opposed to the adverse affect the development could have on his neighborhood.

Ms. Kim Pope, 1525 N. Armistead Avenue, stated most of the houses in the subject area have single car driveways, which means they have to back out on Armistead Avenue. With all the increased traffic that will take place from the development, she proposed to the developer if they would be willing to invest concrete to expand their driveways in order to drive forward out of the driveway. She explained during rush hours, the cars back-up, and residents are immobile for some time because they cannot get out of their driveways. Another concern was whether there would be an

expansion of North Armistead and the parking. She believed that an expansion would result in a disproportionate loss of property.

Mr. Arnold Lorea, 1509 North Armistead, asked the Planning Commission to reconsider approval of Rezoning Application #1189. He stated the existing housing in the subject area is near a lake. He brought his home in 1984, and his first encounter with flooding was after Home Depot was developed. He stated the C-3 zone allowed the site to be raised, but it affected the surrounding neighbors. The residents had no way of raising the land of their home. He believed something can be done to raise their land. He stated the homes have been flooded three times in the last five years, and flooding should be the primary objective to resolving this issue, and then continue with low density housing. He stated housing is needed in the area, but the city has a beautiful Crossroads landmark beginning at Powhatan Parkway and extending through Coliseum Drive. He asked why the development can't be located in that area.

In response to a question by Chairman Johns regarding a \$25,000 difference in the cost of the signal light and the actual proffer, Ms. Butler stated proffers must be voluntarily offered by the applicant. After considerable negotiation, the amount was discussed with the Director of Public Works, who believed it was an acceptable amount.

In response to a question by Commissioner Pilgrim, Ms. Butler stated the traffic study did not show any need for a traffic signal at the Coliseum Crossroads.

In response to a question by Commissioner Leary, Ms. Butler stated the applicant is waiting on the Stormwater Analysis Impact Study to be submitted between now and the next Council meeting. This study is a requirement.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day an application by various owners to rezone 36± acres at 1516, 1518 and 1520 North Armistead Avenue from One Family Residence District (R-11) to Limited Commercial District (C-2) for multi-family and commercial uses; and

WHEREAS: The proposal is consistent with the recommendations of the 2010 Comprehensive Plan, which designate this property for commercial/mixed-use, which may include retail and multi-family uses; and

WHEREAS: The applicant proposes a maximum of 300 apartment and condominium units with proffered conditions that address unit size, building elevations and materials that are intended to achieve the City's high-value housing goal for waterfront sites; and

WHEREAS: The proposed housing values are consistent with those projected for the area by the City's housing consultant; and

WHEREAS: The mixed-use project complements the Crossroads development and enhances the commercial and multi-family development in the Coliseum Central area; and

WHEREAS: A traffic study indicates this development will result in the need for a signalized traffic signal at the intersection of North Armistead Avenue and Freeman Drive, and the applicant has proffered the contribution of \$100,000 toward this device; and

WHEREAS: The applicant has also agreed to install turn lanes recommended in the traffic study; and

WHEREAS: Area residents expressed concern about flooding of their neighborhoods resulting from this project, and the City Engineer has explained that tidal flooding will not be affected by the development of this property; and

WHEREAS: Storm water runoff created by this project must be treated on the site so that post-development levels are no greater than pre-development levels, and the applicant must submit an impact analysis study that demonstrates this before site development approvals are granted; and

WHEREAS: The owners have agreed to donate 30± acres adjacent to Newmarket Creek for public access; and

WHEREAS: The proposed development is consistent with adopted public policies aimed at attracting high-value housing to waterfront sites.

NOW, THEREFORE: On a motion by Commissioner Timothy B. Smith and seconded by Commissioner Perry T. Pilgrim,

BE IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council approval of Rezoning Application No. 1189.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Leary, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

A motion was made by Commissioner Katherine K. Glass, and seconded by Commissioner Perry T. Pilgrim, to extend the Planning Commission meeting past 5:00 p.m. A roll call vote on the motion resulted as follows:

AYES:	Smith, Heath, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None

ABST: None
ABSENT: None

C. **Planning Commission Review**

Mr. O'Neill read the next public hearing item notice.

Planning Commission Review of an application to the Hampton School Board by Sprint PCS to construct a 150' high freestanding monopole communication tower and accessory equipment at Tucker Capps Elementary School, 113 Wellington Avenue.

Mr. Christopher Guarneiri, applicant agent for Sprint PCS, stated this is an application to construct a monopole which is capable of facilitating four carriers at the Tucker Capps Elementary School site. The site is in compliance with the Zoning Ordinance and 2010 Comprehensive Plan. A community meeting was held on July 8th at Tucker Capps Elementary, at which time, citizens voiced concerns regarding location and alternate site consideration. Site consideration has been given to existing Virginia Electric Power Company (VEPCO) towers on the surrounding properties which failed structural integrity analysis by VECPO. Other sites recommended by members of the community included Firehouse Station No. 6 which falls outside of the Sprint search ring, as well as Michael Woods which is residential, and therefore Sprint would not be able to meet setback requirements.

Ms. Stephanie Mertig, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. She stated the applicant has complied with all recommendations from staff, the Zoning Ordinance and Comprehensive Plan. The applicant will proceed to the School Board after the recommendation from Planning Commission. The applicant has performed the inter-modulation which has been accepted, and the site plan is in compliance with the Zoning Ordinance, therefore staff recommends approval.

In response to a question by Commissioner Wallace, regarding Sprint's access being located directly across from the entry road into the apartments across Orcutt Avenue, Ms. Mertig stated the plan shows the entrance road offset, but it could change during the site plan review process.

Mr. Michael Ashe, 63 Wellington Drive, spoke in opposition to the proposed request. He stated the cell tower is sixty to seventy feet above the existing trees currently on the site. He does not believe the tower would be aesthetically pleasing. He stated the equipment area for the tower would be located next to the school playground. The allocation of users would have many antennas protruding out of the trees. He had questions regarding the following: liability, antennas being a potential lightning rod next to the playground; RF radiation when more users are added; any clause put in the contract if future reports suggest the levels are no longer safe for use of the school or playground; and who will be responsible for removal of the pole and site, as well as

replanting of trees when the site is no longer in use. He believed that a better location of the use would be at the end of Warner Road and the east side of Cordoba which is an area where the VEPCO towers are located. He stated there is one vacant lot that is not buildable because of the power lines, and there is space in that area to erect the tower, and not make it look awkward to the community.

In response to a question by Chairman Johns, Mr. Ashe stated he did not know the name of the person who owned the vacant property.

In response to a question by Commissioner Glass, Mr. Ashe stated the site is located in an area where high power lines come through and cross over Wilton Road to Todds Lane. He stated there are three or four towers located near the suggested site he is referring to.

In response to a question by Commissioner Glass, Ms. Mertig concurred that the proposed tower location is one of the identified sites in the Tower Master Plan.

In response to a question by Commissioner Glass regarding Mr. Ashe's alternative site, Ms. Mertig stated the site has not been considered as a propagation site.

In response to a question by Commissioner Smith, Ms. Mertig stated the primary locator on the tower would be Sprint, with a maximum of three co-locaters. A total of four different arrays will be located near the top of the tower. There is a lightning rod at the top of the monopole which would attract the lightning, rather than have it hit other structures. The RF radiation is a non-ionizing electro magnetic radiation which allows the percentage of radiation at the state level. This has been lower than the acceptable level on the site.

In response to a question by Mr. Ashe, Ms. Mertig stated one is for the first user, but any additional users that come on to the site will have to go through the site plan review process.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day a request by Sprint PCS to construct a 150' communications tower on the Tucker-Capps Elementary School property located at 113 Wellington Drive.

WHEREAS: The 2010 Comprehensive Plan recommends that new towers be located on existing tall structures if possible and on Master Plan sites if collocation is not possible; and

WHEREAS: There are no existing tall structures in the vicinity that would permit collocation of antennae. Tucker Capps Elementary School is zoned One

Family Residence (R-11) and is listed in the 2010 Comprehensive Plan's Master Plan of Communication Tower sites; and

WHEREAS: Communication towers that are on the Master Plan list are permitted with approval from the Hampton School Board; and

WHEREAS: Lease monies from the tower are deposited into the School Board's "General Fund" and do not substitute for any other funding; and

WHEREAS: The applicant has agreed to staff's recommended conditions, including a gated entry, a wooden fence, and netting/mesh over the fence; and

WHEREAS: The proposed tower provides space for 3 future co-locators, both on the tower and on the submitted conceptual plan; and

WHEREAS: There was one speaker at the Planning Commission public hearing who expressed concern about radiation, lightening, location and future removal; and

NOW, THEREFORE, on a motion by Commissioner Pilgrim and seconded by Commissioner Glass,

BE IT RESOLVED that the Planning Commission finds that the requested 150' tower at Tucker-Capps Elementary School is consistent with the recommendations of the 2010 Comprehensive Plan and respectfully recommends to the School Board that the application be approved.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Leary, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

Mr. O'Neill read the next public hearing item notice.

D. **City Code Admendment, Chapter 35, Subdivisions**

City Code Amendment, Chapter 35 Subdivisions by the City of Hampton to allow lots in commercial subdivision and fee-simple townhouse developments to front on private streets, and to reduce the minimum residential right-of-way to 40' in those subdivisions not zoned R-22 or R-33.

Mr. Matt Newsom, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. He stated the amendment will allow lots in commercial subdivisions and fee-simple townhouse developments to front on private

streets, and reduces the minimum public right-of-way width for a residential street (not R-22 or R-33) from 50 feet to 40 feet. He stated staff recommends approval of the city code amendment.

Mr. O'Neill stated in regards to the provisions Mr. Newsom mentioned in terms of allowing residential subdivisions to be constructed on private streets, there has been a mechanism in place to allow this to happen. The R-OS Use Permit process permitted this procedure, but it was repealed because of the State statute that was passed. Currently there have been provisions to allow this type of development, and this is one of the ways to substitute to allow the same flexibility that was permitted in the past, but doing it a different way. He informed the Commission that this is not a new thing, but staff is trying to use different tools to have the flexibility to accommodate the different development types. He stated this is not an absolute requirement, but it gives the city engineers and Director of Public Works the option of a potential administrative decision that they can make. He suspects most of this is going to go toward helping to facilitate development in the strategic development areas.

In response to a comment by Commissioner Wallace, Mr. O'Neill stated staff wants to facilitate certain types of developments that are different in a certain way from the surrounding development in the community. These standards would be useful in areas identified in policy documents, which gives them the guide of when they should or should not use it.

After discussion, the Commission approved the following resolution:

WHEREAS: The City of Hampton proposes to amend Chapter 35 (subdivisions), Section 35-71 (Lots Generally) and Section 35-74 (Streets Generally) of the City Code to allow private streets in commercial subdivisions and fee-simple townhouse developments, and to reduce the minimum public right-of-way width for a Residential Street (not R-22 or R-33) from 50 feet to 40 feet;

WHEREAS: The Council adopted the Downtown Hampton Master Plan on January 14, 2004

WHEREAS: The proposed changes in the City Code are in direct response to the recommendations made in the Downtown Hampton Master Plan to allow for a new urban type of dense residential housing units, along with mixed-use developments; and

WHEREAS: In response to a question by the Commission, staff stated that the 40' right-of-way is not by-right, but is to be used for more urban types of residential developments; and

NOW, THEREFORE: On a motion by Commissioner Katherine Glass and seconded by Commissioner Perry Pilgrim,

BE IT RESOLVED that the Planning Commission of the City of Hampton hereby recommends to the Hampton City Council an amendment to the City Code to amend Chapter 35 (Subdivisions), Section 35-71 (Lots Generally) and Section 35-74 (Streets Generally) to allow private streets in commercial subdivisions and fee-simple townhouse developments (Section 35-17, 35-74), and to reduce the minimum public right-of-way width for a Residential Street (not R-22 or R-33) from 50 feet to 40 feet (Section 35-74).

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Leary, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

Mr. O'Neill read the next public hearing item notice.

E. **Resolution**

Resolution on the expansion of the City of Hampton's Special Public Interest-Chesapeake Bay Preservation District/Intensely Developed Area (SPI-CBPD/IDA) boundaries to conform to the Chesapeake Bay Preservation Act requirements.

Mr. Brian Ballard, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. He stated the approval of the resolution recommends the designation of lands within Hampton as Intensely Developed Area (IDA) pursuant to state mandated and locally adopted IDA designation criteria and as graphically depicted on the proposed Chesapeake Bay Preservation District map revision dated July 4, 2004.

Mr. O'Neill stated when this item was discussed in the Spring, and if there are issues that need to be tweaked, changed or discussed, he would like to hear those comments as soon as possible. The schedule that has been presented by Mr. Ballard are fixed dates and the committees only meet quarterly. The longer the issue is delayed, the more staff will have to deal with residents who want to construct sheds, etc.

Commissioner Smith stated he is still concerned with the scope of the map that identifies properties except for the extended areas of Fox Hill Road, Grandview and Harris Creek Road. He stated the rezoning that was presented regarding Armistead Avenue gives him concern.

Commissioner Pilgrim stated in serving on the Wetlands Board and having worked with critics on construction issues, he believes this is addressing the continue

dilemma that the home owner has when they want to construct a shed, but cannot because of the one size fits all 100 foot RPA, but the adjacent neighbor has a 3,000 square foot home which does not make sense. He believes this has a two size fits all and it is a good thing.

Commissioner Smith stated he is not against the IDA's boundaries, but he has concerns regarding the scope of designation.

Mr. O'Neill stated he sympathizes with Commissioner Smith's concerns and staff has debated long and hard regarding shoreline that is predominantly developed and a parcel of a particular size. The internal debate was do you pull out the parcel that is already in the middle and leave it as not being an intensely developed area or do you take some other approach? Staff ultimately decided that it made no sense to pull out isolated parcels on what would be a shoreline that is almost totally developed. Staff took the position of taking the overall view because of what isolated parcels do in terms of water quality which is minimum, if any, and this is the more logical approach.

After discussion, the Commission approved the following resolution:

WHEREAS: The Council of the City of Hampton, Virginia ("Council") adopted Chapter 17.3, Article X, Special Public Interest - Chesapeake Bay Preservation District (SPI-CBPD) on November 14, 1990;

WHEREAS: The Council adopted amendments to Chapter 17.3, Article X (Special Public Interest - Chesapeake Bay Preservation District) on May 12, 2004 in order to be consistent with new state law and regulations; and

WHEREAS: Sec. 17.3-61 provides that the Chesapeake Bay Preservation District is composed of the Resource Protection Area (RPA) and the Resource Management Area (RMA) and that the boundaries are shown for administrative and demonstrative purposes on the Chesapeake Bay Preservation District Map; and

WHEREAS: Sec. 17.3-62 defines an "Intensely Developed Area" (IDA) as a portion of the Chesapeake Bay Preservation District that is within the RPA and is designated on the Map; and

WHEREAS: Sec. 17.3.63 of SPI-CBPD establishes criteria for designating IDA's within the Chesapeake Bay Preservation District; and

WHEREAS: The criteria for designating IDAs establish that IDA's are portions of Hampton's shoreline where little of the natural environment remains and at least one of the following conditions existed in the area prior to October 1, 1989:

1. Impervious surface exceeding 50% of the area;

2. Constructed and functioning public sewer and water systems, or a constructed stormwater drainage system, or both, serving the area; or
3. Housing density equal to or greater than four dwelling units per acre.

WHEREAS: A study of the shoreline has indicated that lands as shown on the revised Chesapeake Bay Preservation District Map, dated July 4, 2004 and presented by City Staff, meet the criteria set forth in Sec. 17.3-63 and warrant designation as IDA.

NOW, THEREFORE: On a motion by Commissioner Katherine K. Glass and seconded by Commissioner Perry T. Pilgrim,

BE IT RESOLVED that the Planning Commission of the City of Hampton hereby recommends to the Hampton City Council designation of Intensely Developed Areas within the Chesapeake Bay Preservation District as shown on the revised Hampton City Chesapeake Bay Preservation District Map dated July 4, 2004.

A roll call vote on the motion resulted as follows:

AYES:	Pilgrim, Glass, Wallace, Leary, and Johns
NAYS:	Smith
ABST:	None
ABSENT:	Heath

ITEM VI. PLANNING DIRECTOR'S REPORT

Mr. O'Neill stated a general overview of the year-end annual report is normally presented in August, but due to the time and other items that needed to be presented to the Commission, he asked the Commission if they would like to be presented with the report, refer to a subsequent meeting, review it and then ask questions.

A motion was made by Commissioner Perry T. Pilgrim, and seconded by Commissioner Angela Leary, to defer the annual report until the September 13, 2004 Planning Commission meeting. A vote on the motion resulted as follows:

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Leary, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

Mr. O'Neill reminded the Commission of the Buckroe Master Plan planning session that will be held at St. Joseph's Catholic Church. The public meeting will be on the evening of Thursday, September 16th. City staff, community members, and the consultants will be meeting at St. Joseph's Catholic Church on September 14th through the 16th. He invited the Commission to join in on the process.

In response to a comment by Commissioner Wallace regarding changing the Bylaw time extension, Mr. O'Neill stated staff will draft a proposal change in the Bylaws in order for the meeting extension to be changed from 5:00 p.m.

Mr. O'Neill announced this is the last meeting for Commissioner Glass after eight years, and staff has thoroughly enjoyed Commissioner Glass' service and being available to perform functions or to ask her questions. He read the following resolution:

WHEREAS: Katherine K. Glass has faithfully served as a loyal and dedicated Planning Commissioner for eight years, from 1996 to 2004; and

WHEREAS: Ms. Glass was appointed and served as Vice-Chairman from 1998-1999 and as Chairman from 1999-2000; and

WHEREAS: Ms. Glass has generously volunteered substantial time and effort to help strike a delicate balance between development interests, private and public, and the protection of communities across Hampton; and

WHEREAS: Ms. Glass has been a valuable asset to staff and other Commissioners through her many years of experience and knowledge of City objectives and long-term planning efforts; and

WHEREAS: Serving on the Steering Committee for the Fox Hill Small Area Plan, Ms. Glass contributed extensive knowledge and helped bring about a Plan that augments the 2010 Comprehensive Plan, reinforces City objectives, and supports the interests and visions of the Fox Hill community; and

WHEREAS: Ms. Glass volunteered to serve on the "Healthy Neighborhoods" focus group during the initial phase of the new Community Plan development, encouraging economically sustainable neighborhoods, highly functional neighborhoods, and diverse housing choices to make Hampton's neighborhoods the best places to live; and

WHEREAS: Championing the healthy development of youth, Ms. Glass encouraged and sponsored events with local children to educate them about community building and inspire them to achieve great things; and

WHEREAS: Ms. Glass supported the adoption of several Plans, including the 1998 Hampton Strategic Plan, the *Greater Wythe Area Plan* (Phases I and II), the *Coliseum Central Design Guidelines*, the *Harris Creek Small Area*

Plan, the Newtown Neighborhood Plan, the East Pembroke Commercial Corridor Study, the Kecoughtan Commercial Corridor Study and the Downtown Hampton Master Plan; and

WHEREAS: These notable accomplishments exemplify Katherine Glass' tremendous commitments to the City of Hampton and obtaining the goals set forth in the 2010 Comprehensive Plan, as well as various small area and neighborhood plans; and

WHEREAS: Ms. Glass has played a substantial role in furthering the City of Hampton's mission to become the most livable city in Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Hampton Planning Commission and Hampton Planning Department find Katherine K. Glass highly deserving of recognition for her noteworthy achievements, dedicated community service, and honorable commitment to staff, citizens, and the City of Hampton.

BE IT FURTHER RESOLVED that this Resolution be spread upon the minutes of the August 9, 2004 meeting of the Hampton Planning Commission, and that an appropriate copy be signed by the Chairman, attested by the Secretary, and presented to Ms. Katherine K. Glass. Given this 9th day of August 2004.

Commissioner Glass stated she served on the Planning Commission following her dear friend, Mr. Lennie Routten, and she thanked him for being present this day. She stated when she came, her daughter was three years old, and is now eleven, and she thanked her tag team. She stated her daughter is a product of tag team parenting, and she introduced her mother, grandmother, husband, and brother. She stated the history of service to the city in her family goes back a long way. Each family member has played a part in serving the city. She stated serving on the Planning Commission has been a pleasure, and she also thanked her employer for allowing her the opportunity to serve the city. She has worked with some old friends, and she is pleased to have been a part of the Planning Commission, and she believes Commissioner Leary would be a strong advocate for the neighborhood which is the strength of Hampton. She also witnessed true love from citizens who were adamant about their feelings, and it was motivated by true love for the City of Hampton and they would care enough to come and present their thoughts and suggestions to the Commission. She stated staff has worked really long hours and have done an incredible job. It is a hard job, because they are constantly dealing with citizens who don't always have background information or the complexity of what is involved, and staff is always cheerful, patient, and polite. She believes staff's level of service is higher than other localities and that is because of the dedication offered to the job. She commented to Commissioner Wallace that he has an absolutely wonderful staff, and that comes from the top down, and that we are a citizen based city and it is incredible. She had a couple of opportunities to travel around the state to different conferences,

and she has been asked about the level of community involvement, which has taken place with our youth involvement. She stated Hampton has a wonderful reputation which includes our youth. She regrets that she will not be around to see the conclusion of the Community Plan, but will stay in touch to make sure that everything comes to fruition. She thanked everyone.

Commissioner Pilgrim stated this now makes him the senior Commissioner. He acknowledged the newest member, Commissioner and Councilwoman Leary, and stated it falls to the Council to appoint someone of similar or equal value. He stated the Council has a task ahead of them because with seven years of sitting with Commissioner Glass, she is definitely the best part of the Planning Commission.

Chairman Johns announced that this is his last meeting with the Planning Commission. He has made a decision to retire after thirteen years of serving the city and in other capacities. However, he is reaching a point in his life where he realizes he has to cut back his service due to family health problems. This will require him to do some traveling to assist his family. He has always been a committed individual attempting to fulfill his obligations, and try his best to do them, but he realizes there will be times where he cannot fulfill his obligations, and therefore made this decision. He thanked City Council for appointing him, and for the citizens of Hampton for supporting him. He stated he was thinking last night that this is the greatest bunch of people that he has had an opportunity to work with in his entire professional life. He alluded to the illustrious Planning Director and staff, and it's inclusive of Mr. Wallace, City Manager. He will miss everyone, but he knows staff will continue to do great work for the city.

Commissioner Smith read the following resolution:

- WHEREAS: Mr. Harold O. Johns has served as a reliable and enthusiastic Planning Commissioner for four years, from 2000 to 2004; and
- WHEREAS: Mr. Johns was appointed and faithfully performed the duties of Vice-Chairman from 2002-2003 and as Chairman from 2003-2004; and
- WHEREAS: An advocate of neighborhood organizations, Mr. Johns promoted citizen involvement with governmental activities and encouraged civic education and responsibility; and
- WHEREAS: Mr. Johns has been a substantial benefit to staff and other Commissioners, liberally contributing his many years of familiarity with City objectives and long-term planning efforts and sharing his wisdom and awareness gained from his time spent faithfully serving on the Neighborhood Commission; and
- WHEREAS: Harold Johns volunteered to serve on the "Healthy Neighborhoods" focus group during the initial phase of the new Community Plan development, encouraging economically sustainable neighborhoods,

highly functional neighborhoods, and diverse housing choices to make Hampton's neighborhoods the best places to live; and

WHEREAS: Mr. Johns endorsed several Small Area Plans, including the *Greater Wythe Area Plan* (Phase II), the *Harris Creek Small Area Plan*, the *East Pembroke Commercial Corridor Study*, the *Kecoughtan Commercial Corridor Study* and the *Downtown Hampton Master Plan*; and

WHEREAS: Mr. Johns has donated a great deal of his time and energy to achieve and maintain a delicate balance between development interests, private and public, and the protection of communities across Hampton; and

WHEREAS: These personal investments illustrate Harold Johns' commitment to the City of Hampton goals as set forth in the 2010 Comprehensive Plan, as well as various small area and neighborhood plans; and

NOW, THEREFORE, BE IT RESOLVED that the Hampton Planning Commission and Hampton Planning Department wish to recognize Harold O. Johns for his accomplishments while serving on the Planning Commission, his generous investment in the Citizens of Hampton, and his efforts to make Hampton the most livable City in America.

BE IT FURTHER RESOLVED that this Resolution be spread upon the minutes of the August 9, 2004 meeting of the Hampton Planning Commission, and that an appropriate copy be signed by the Vice-Chairman, attested by the Secretary, and presented to Mr. Harold O. Johns. Given this 9th day of August 2004.

Commissioner Pilgrim noted his earlier comments and that the Council now has to proceed twice.

ITEM VII. ITEMS BY THE PUBLIC

There were no items by the public.

ITEM VIII. MATTERS BY THE COMMISSION

There were no items by the Commission.

ITEM IX. ADJOURNMENT

There being no additional items to come before the Commission, the meeting adjourned at 6:12 p.m.

Respectfully submitted,

Terry P. O'Neill
Secretary to Commission

APPROVED BY:

Harold O. Johns
Chairman